

LAW OFFICES  
**HARTMAN & WINNICKI, P.C.**

Dariusz M. Winnicki \*<sup>o</sup>  
Richard L. Ravin \*<sup>o</sup>□  
Daniel L. Schmutter\*  
Andrew T. Wolfe\*

74 PASSAIC STREET  
RIDGEWOOD, NEW JERSEY 07450

Phone: (201) 967-8040  
Fax: (201) 967-0590

\* \* \*

\* New York and New Jersey Bars  
<sup>o</sup> Florida Bar  
□ Washington, D.C. Bar  
◇ New Jersey Bar

WEBSITE  
[www.hartmanwinnicki.com](http://www.hartmanwinnicki.com)

Porter E. Hartman (1920-2009)  
Charles R. Buhrman (1938-1994)  
William T. Marsden (1943-1993)  
Cyrus D. Samuelson (1911-1998)

December 18, 2021

**VIA ECF**

Hon. Paul G. Gardephe, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square, Room 2204  
New York, New York 10007

**Re: Everytown for Gun Safety Action Fund, Inc. v. Defcad, Inc., et al.  
Civil Action No. 21-cv-8704 (PGG)**

**EMERGENCY LETTER MOTION FOR STAY PENDING APPEAL**

Dear Judge Gardephe:

We represent Defendants Defcad, Inc. (“Defcad”), Odysee User xYeexySZN, Defcad User xYeezySZN, The Gatalog, Defcad User Freeman1337, Twitter User xYeezySZN, and Phillip Royster (“Defendants”) in the above-referenced matter.

We note the entry on the docket of the Court’s Order Approving Stipulation Between Plaintiff Everytown For Gun Safety Action Fund, Inc. and Third Party Twitter, Inc. (ECF No. 72). We also note that the Court entered the order without regard to and without discussing: (1) Defendants’ Objection to Proposed Order Approving Stipulation Between Plaintiff Everytown For Gun Safety Action Fund, Inc. and Third Party Twitter, Inc. (ECF No. 71) and (2) certain Defendants’ pending and undecided Emergency Motion with respect to the November 5, 2021 Ex Parte Discovery Order (ECF No. 31).

Since entry of ECF No. 72 is plainly inconsistent with the relief sought in ECF 31, Defendants deem the entry of ECF 72 as a denial of ECF No. 31 in its entirety.

Accordingly for the reasons set forth in ECF No. 71 and ECF No. 31, Defendants urgently request a stay of ECF No. 72 and the Court’s November 5, 2021 Order to Show Cause (ECF No. 30) pending appeal to the United States Court of Appeals for the Second Circuit.

Hon. Paul G. Gardephe, U.S.D.J.

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Thank you for your attention in this regard.

Respectfully submitted,

/s/ Daniel L. Schmutter

DANIEL L. SCHMUTTER

DLS/srs

Enclosures

cc: Marcella Ballard, Esq. (via ECF)  
Meaghan Kent, Esq. (via ECF)  
David W. Shapiro, Esq. (via ECF)